

Memorandum



Date: July 3, 2012

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

Agenda Item No. 8(A)(2)

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez".

Subject: Recommendation to Reject Request for Proposals for Strategic Merchant Services
Affinity Program Provider at Miami International Airport RFP No. MDAD-02-10

RECOMMENDATION

It is recommended that the Board of County Commissioners reject the one proposal from Elavon Inc. received by the Miami-Dade Aviation Department for the Request for Proposals (RFP) for Strategic Merchant Services Affinity Program Provider at Miami International Airport RFP No. MDAD-02-10.

SCOPE

Miami International Airport (MIA) is located primarily within Commissioner Rebeca Sosa's District Six; however, this item is county-wide in nature as MIA is a regional asset.

FISCAL IMPACT FUNDING

Not applicable as this is a rejection of the sole proposal.

TRACK RECORD/MONITOR

Not applicable as this is a rejection of the sole proposal.

BACKGROUND

The RFP for Strategic Merchant Services Affinity Program Provider advertised on October 31, 2011, sought a qualified firm to provide non-exclusive payment processing services to MIA concessionaires to accept credit card payments directly from customers. It was anticipated that the successful proposer would provide the Aviation Department with payment processing services to consolidate and leverage the volume of transactions at MIA in order to obtain competitive fees, ease of use, enhanced reconciliation, funds settlement, and reporting capabilities. Payment instruments that may be accepted included merchant cards, cash, personal checks, all major credit cards, Pin/PIN-Less debit cards, e-checks, and other methods of payment.

The County Attorney's Office deemed the sole proposal from Elavon Inc. non-responsive as Elavon submitted a statement of exceptions and clarifications to its proposal, materially altering the terms and conditioning its proposal upon future County or third-party actions not contemplated in the RFP. Given the dynamics of these services, the Department will re-assess this solicitation in order to determine if these services are viable for concessionaires at MIA.

A handwritten signature in black ink, appearing to read "Jack Osterholt".

Jack Osterholt, Deputy Mayor




MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 3, 2012


FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(A)(2)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(2)

7-3-12

RESOLUTION NO. _____

RESOLUTION REJECTING ALL PROPOSALS RECEIVED IN
CONNECTION WITH STRATEGIC MERCHANT SERVICES
AFFINITY PROGRAM PROVIDER AT MIAMI
INTERNATIONAL AIRPORT RFP NO. MDAD-02-10

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby rejects all proposals received in connection with Request for Proposals for Strategic Merchant Services Affinity Program Provider at Miami International Airport RFP No. MDAD-02-10.

The foregoing resolution was offered by Commissioner _____,
who moved its adoption. The motion was seconded by Commissioner _____
and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of July, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



David M. Murray

**COUNTY ATTORNEY
MIAMI-DADE COUNTY, FLORIDA**



AVIATION DEPARTMENT
P.O. BOX 025504
MIAMI, FLORIDA 33102-5504
Phone: (305) 876-7040
Fax: (305) 876-7294

MEMORANDUM

TO:	Pete Betancourt Contracts Administration	DATE:	March 22, 2012
FROM:	David M. Murfay Assistant County Attorney	SUBJECT:	Request for Responsiveness Opinion RFP MDAD-02-10

You have asked, by copy of the memorandum attached, whether the proposal submitted by Elavon Inc. (Elavaon) was responsive. This opinion addresses solely the specific questions raised in your memorandum, and is based solely on the information provided in that memorandum.

RFP MDAD 02-10 included a draft contract. This draft contract defined the relationship between a successful proposer and the County. Here, Elavon, with its proposal, submitted a statement of exceptions and clarifications to the proposal; that statement includes by reference two other documents, an Association Agreement and an Elavon Agreement. Elavon has stated that their proposal is expressly premised on the County executing these documents. In fact, Elavon "requires" this of the County. Additionally, Elavon states that its proposal is expressly conditioned on the ability of third parties to later meet Elavon's underwriting requirements.

These terms are materially different than those contained in the draft contract attached to the proposal. A proposer cannot submit a proposal that materially alters the terms of the proposal, or otherwise conditions the acceptance of the proposal on future County or third party actions not contemplated in the RFP. *See Aurora Pump v. Goulds Pump, Inc.*, 424 So. 2d 70 (Fla. 1st DCA 1982). Accordingly, Elavon's proposal is non-responsive.

DMM:ram
Attachment